

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

THE HIPSAVER COMPANY, INC.,

Plaintiff,

V.

J.T. POSEY COMPANY.

Defendant.

AND RELATED COUNTERCLAIM.

Civil Action No. 05-10917 PBS

ORAL HEARING REQUESTED

[PROPOSED]
ORDER ON MOTION TO COMPEL THE DEPOSITION OF HELEN
BROGNA AND FOR SANCTIONS AGAINST HIPSAVER AND ITS
COUNSEL

The Court, having considered (i) the motion of Defendant and Counterclaimant J.T. Posey Company (“Posey”) for an order compelling the deposition of Helen Brogna and for sanctions against Plaintiff and Counter Defendant The HipSaver Company, Inc. (“HipSaver”) and its counsel, (ii) the opposition of HipSaver to the motion and (iii) the arguments of counsel, the Court finds that Ms. Brogna, a party affiliated witness, failed to appear for deposition as agreed on November 30, 2005, that the failure to appear was without justification, and that no circumstances make the award of sanctions in connection with this matter unjust. Therefore, the motion is GRANTED.

Ms. Brogna shall appear for deposition within the next twenty days on a date that is agreeable to Posey. HipSaver and its counsel shall reimburse Posey for the costs it

incurred as a consequence of Ms. Brogna's failure to appear and for the costs incurred in bringing this motion in the amount of \$2,736.10. This amount shall be paid within 15 days of the date of entry of this order.

Further, the deposition shall take place in _____. HipSaver and its counsel shall reimburse Posey for the expenses associated with the taking of the deposition in the amount of _____. This amount shall be paid within 15 days of the completion of the deposition.

IT IS SO ORDERED.

U.S. Magistrate Judge